

FAX - FILED

DEC 30 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

ORIGINAL FILED

December 30 2009

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STATE OF MONTANA

FILED

DEC 31 2009

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

Jeremy S. Yelling, Esq.
Attorney at Law
P.O. Box 564
Havre, MT 59501
Telephone: (406) 265-3303
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ATTORNEY FOR RESPONDENT

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN RE THE PARENTING OF,
D.N.S. A MINOR,

Cause No.: DA 09-0521

ASHLEY N. WATERS,

Petitioner and Appellee,

and

CLAUDE DANIEL SMITH,

Respondent and Appellant.

MOTION TO EXTEND
BRIEFING DEADLINE

COMES NOW the Appellant (Mr. Smith) herein, by and through the undersigned, and moves the Court to extend the briefing deadline in this matter.

The basis for this motion is that the undersigned has been attempting to receive a copy of the transcript of the hearing in this matter, and has failed to receive it. He has sent numerous letters, left multiple messages, and has been unsuccessful in acquiring a copy. Due to being unable to obtain the transcript, he has been unable to prepare a brief in this matter.

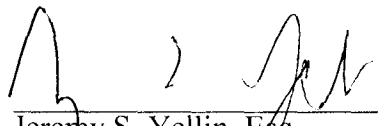
In addition, the undersigned's wife passed away on December 3, 2009. The undersigned has returned back to work, but due to being out of the office for an extended period of time and the changes in his personal life, including him having sole responsibility for his eight (8) month old son, he requires additional time to best prepare said brief.

The undersigned has attached a copy of court reporter, Kelley Barstad's affidavit and the undersigned's affidavit supporting the undersigned's motion to extend this briefing deadline.

After communicating with Ms. Barstad, the undersigned feels that a forty-five (45) day extension should be sufficient time to prepare and draft his brief.

1 The office of the undersigned has contacted the opposing counsel and he does not oppose
2 the motion.

3 Dated this 30th day of December, 2009.

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5 _____
6 Jeremy S. Yellin, Esq .
7 Attorney for Appellant
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Certificate of Service

I hereby certify that on the 30th day of December, 2009, I;

- ☒ Mailed
- ☐ Hand-delivered
- ☒ Faxed

a copy of the forgoing document to the following:

Clerk of Montana Supreme Court
Ed Smith
Room 323, Justice Building- 215 North Sanders
P.O. Box 203003
Helena, Montana 59620-3003
FACSIMILE: (406) 444-5705

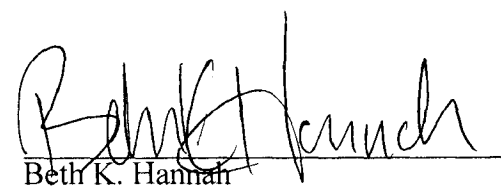
Terrance L. Toavs
Law Offices of Terrance L. Toavs
429 2nd Avenue South
Wolf Point, MT 59201
FACSIMILE: (406) 653-1665

I hereby certify that on the 30th day of December, 2009, I;

- ☒ Mailed
- ☐ Hand-delivered
- ☐ Faxed

a copy of the forgoing document to the following:

Claude Daniel Smith
40122 Dellwo Road
Charlo, MT 59824


Beth K. Hannah

1 KELLEY A. BARSTAD
2 Official Court Reporter
3 Valley County Courthouse
4 501 Court Square, #4
5 Glasgow, Montana 59230
6 (406) 228-6270

7 MONTANA SEVENTEENTH JUDICIAL DISTRICT COURT
8 PHILLIPS COUNTY

9 IN RE THE PARENTING OF DNS,
10 A MINOR CHILD,

11 ASHLEY N. WATERS,
12 Petitioner,

13 v.

AFFIDAVIT

14 CLAUDE DANIEL SMITH,

15 Respondent.

16 STATE OF MONTANA)
17 : ss
18 COUNTY OF VALLEY)

19 KELLEY A. BARSTAD, being first duly sworn upon her
20 oath, deposes and states:

21 1. I am the duly appointed court reporter for the
22 above-entitled action.


23 2. I have completed the transcript that was requested
24 on appeal, but not in time for the attorney requesting
25 the same.

3. I was on sick leave for four weeks for an operation
and have had a lot to catch up on. I extend my
apologies for having to have this extended.

1 FURTHER AFFIANT SAYETH NOT, dated this 29th day of
2 December, 2009

3 
4 Kelley A. Barstad
5 Court Reporter

6 Subscribed and sworn to before me this 29th day of
7 December, 2009.
8

9 
10 Notary Public, Clerk of Court
11 State of Montana
12 Residing at: Glasgow
13 Commission expires: 12/31/2010
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Jeremy S. Yelling, Esq.
Attorney at Law
P.O. Box 564
Havre, MT 59501
Telephone: (406) 265-3303
Telecopier: (406) 265-0600

ATTORNEY FOR RESPONDENT

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN RE THE PARENTING OF, D.N.S. A MINOR,)	Cause No.: DA 09-0521
ASHLEY N. WATERS,)	
Petitioner and Appellee,)	AFFIDAVIT IN SUPPORT OF MOTION TO EXTEND
and)	
CLAUDE DANIEL SMITH,)	
Respondent and Appellant.)	

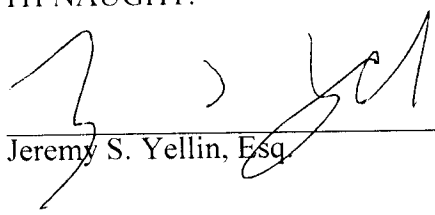
STATE OF MONTANA)	
County of Hill)	ss.

I, Jeremy S. Yellin, after being duly sworn, upon my oath, do depose and say as follows:

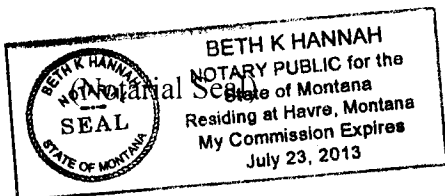
- That your affiant has been unable to procure a transcript for the hearing in this matter until this date, despite numerous attempts;
- That on December 3, 2009, your affiant's wife died;
- That because of these factors, your affiant is unable to prepare a brief by the deadline of December 31, 2009;
- That your affiant believes forty-five (45) days from this date is sufficient;

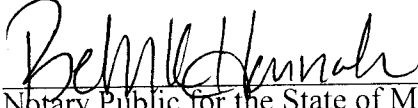
1 5. FURTHER YOUR AFFIANT SAYETH NAUGHT.

2 Dated this 30 day of December, 2009.

3 
4 _____
5 Jeremy S. Yellin, Esq.

6 SUBSCRIBED AND SWORN to before me this 30 day of December, 2009.



10 
11 _____
12 Notary Public for the State of Montana.
13 Printed Name Beth Hannah
14 Residing at Havre MT
15 My commission expires: 7-23-13